

REMARKS

The Office Action mailed December 28, 2006 has been carefully reviewed along with the references cited therein. In this response, claims 1 and 17 have been amended for clarification purposes. The claim amendments are discussed below.

Claim Rejections – 35 USC § 103

Claims 1, 5, 6, 9, and 14-21 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Evans (U.S. Patent No. 3,168,365) in view of Wise (U.S. Patent No. 2,911,275) and Vargo (U.S. Patent No. 4,553,725). This rejection should be withdrawn for at least the following reason: none of the cited references, whether taken alone or in combination, teaches or suggests every aspect set forth in the subject claims.

Independent claim 1 of Applicants' application sets forth a "...support member punched out of and extending from the first side wall such that a first opening is formed through the first side wall adjacent the first support member, wherein the first support member includes a first leg extending at least substantially normal to the first side wall and a second leg extending from the first leg spaced from and at least substantially parallel to the first side wall, the second leg includes a substantially hemispherical dimple formed in a straight portion of the second leg..." Independent claim 17 sets forth similar aspects. Additionally, the independent claims have been amended to clarify that the substantially hemispherical dimple included in the second leg of the first support member is *punched into the second leg during formation of the first support member*. Evans simply fails to teach or suggest this feature of the subject claims.

The Examiner contends that Evans teaches a support member that has first leg that is normal (e.g., orthogonal, perpendicular) to a first sidewall, and a second leg that is parallel to the first side wall. The examiner has taken pains to add reference numerals to Figure 4 of Evans to identify the first and second "legs" of the hook structure 17 of Evans. Specifically, the substantially S-shaped hook of Evans, the Examiner asserts, has a lower curved portion (Examiner's Exhibit A) that corresponds to Applicants' normal support leg, and an upper curved portion (Examiner's Exhibit B) that corresponds to Applicants' parallel support leg. However, contrary to the Examiner's

assertions, Exhibit A (the lower curved portion of the hook 17) extends at approximately a 45 degree angle from the mounting strip in which it is positioned, and the curvature of the hook does not at any point approach a 90-degree (e.g., perpendicular or "normal") orientation to the mounting surface. Thus, Evans fails to teach or suggest the claimed aspect of a support member that includes a first leg extending at least substantially normal to the first side wall and a second leg extending from the first leg spaced from and at least substantially parallel to the first side wall as recited in the subject independent claims. Moreover, Evans fails to teach or suggest forming the support member with a dimple punched into the second leg during formation of the support member, where the dimple is received by a corresponding aperture in the shelf to facilitate alignment and retaining.

Wise and Vargo fail to overcome the deficiencies of Evans with regard to the subject independent claims. Specifically, neither Wise nor Vargo teaches or suggests a shelf support member consisting of a perpendicular leg and a parallel leg over which a flange of a shelf fits to secure the shelf to a cabinet wall. Moreover, none of the cited references teaches or suggests forming a retaining dimple on a support member that is punched out from a sidewall, let alone forming the dimple as an integral part of the support member when the support member is punched out of the sidewall. It appears, in this sense, that the Examiner is impermissibly using the subject application as a blueprint to formulate a hindsight mapping of various elements to meet Applicants' claims.

The Courts have consistently and repeatedly held that it is impermissible to "use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention." In re Fine, 837 F.2d 1071, 1075, 5 USPQ2d 1780, 1783 (Fed. Cir. 1988). Additionally, "[b]road conclusory statements regarding the teaching of multiple references, standing alone, are not 'evidence.'" Dembiczak, 175 F.3d at 999, 50 USPQ2d at 1617. It appears that the Examiner has cobbled together a number of references in an attempt to meet each limitation of Applicants' claimed invention. Moreover, each of the cited references would require substantial modification in order to function if combined as suggested by the Examiner. For instance, the clip of Vargo would require mounting in an aperture in a cabinet sidewall,

which is typically not as structurally stable as corner post such as is employed in the shelf system of Vargo.

For at least the foregoing reasons, it is readily apparent that neither Evans nor Wise nor Vargo, alone or in combination, make obvious Applicants' invention as set forth in independent claims 1 and 17 (and claims 5, 6, 9, and 14-21, which depend respectively therefrom). Thus, claim 1 and claims 5, 6, 9, 14-16 dependent thereon, and claim 17 and claims 18-21 dependent thereon, are in condition for allowance.

CONCLUSION

For the reasons detailed above, it is respectfully submitted all claims remaining in the application are now in condition for allowance. Accordingly, an early indication of the same is earnestly solicited. In any event, should the Examiner consider personal contact advantageous to the disposition of this case, the Examiner is encouraged to telephone the undersigned at the number listed below.

Respectfully submitted,

FAY SHARPE LLP

3/27/07

Date

James E. Scarborough, Reg. No. 47,056
John M. Ling, Reg. No. 51,216
1100 Superior Avenue, Seventh Floor
Cleveland, OH 44114-2579
216-861-5582

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Date: March 27, 2007	Name: Kara L. Krist